

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

JUDICIAL WATCH, INC.,	)	
501 School Street, S.W., Suite 700	)	
Washington, DC 20024,	)	
	)	
Plaintiff,	)	Civil Action No.
	)	
v.	)	
	)	
U.S. DEPARTMENT OF LABOR	)	
Frances Perkins Building	)	
200 Constitution Avenue, NW	)	
Washington, DC 20210	)	
	)	
Defendant.	)	
_____	)	

**COMPLAINT FOR DECLARATORY AND  
INJUNCTIVE RELIEF**

Plaintiff Judicial Watch, Inc. brings this action against Defendant Department of Labor (“DOL”) to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”).

As grounds therefor, Plaintiff alleges as follows:

**JURISDICTION AND VENUE**

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

### **PARTIES**

3. Plaintiff is a non-profit, educational foundation organized under the laws of the District of Columbia and having its principal place of business at 501 School Street, S.W., Suite 700, Washington, DC 20024. Plaintiff seeks to promote integrity, transparency, and accountability in government and fidelity to the rule of law. In furtherance of its public interest mission, Plaintiff regularly serves FOIA requests on federal, state, and local government agencies, entities, and offices, and disseminates its findings to the public.

4. Defendant is an agency of the United States Government and is headquartered at 200 Constitution Avenue, NW, Washington, DC 20210. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

### **STATEMENT OF FACTS**

5. On August 4, 2009, Plaintiff sent a FOIA request to the Employee Benefits Security Administration (“EBSA”), a component of Defendant, seeking access to all records concerning the following entities’ misconduct and/or violations of laws and/or policies, including but not limited to the Employee Retirement Income Security Act (“ERISA”):

1. Association of Community Organizations for Reform Now (“ACORN”)
2. ACORN Housing
3. Citizen’s Consulting Inc.
4. Citizen’s Services, Inc.
5. Communities Voting Together
6. Project Vote
7. Service Employees International Union (SEIU)
8. SEIU Local 100
9. SEIU Local 880

6. The request was served by facsimile and certified U.S. mail. The request sent by facsimile was received by EBSA on August 4, 2009. According to U.S. Postal Service records, the request sent by certified mail was received by EBSA on August 11, 2009.

7. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), EBSA was required to respond to Plaintiff's August 4, 2009 FOIA request within twenty (20) working days, or on or before September 1, 2009. As of September 28, 2009, EBSA has failed to produce any records responsive to the request or demonstrate that responsive records are exempt from production. Nor has it indicated whether or when any responsive records will be produced. In short, EBSA has failed to respond to the request in any fashion.

8. Because EBSA failed to comply with the time limit set forth in 5 U.S.C. § 552(a)(6)(A) or extend that time limit pursuant to 5 U.S.C. § 552(a)(6)(B), Plaintiff is deemed to have exhausted any and all administrative remedies with respect to its August 4, 2009 FOIA request, pursuant to 5 U.S.C. § 552(a)(6)(C).

**COUNT 1**

(Violation of FOIA)

9. Plaintiff realleges paragraphs 1 through 8 as if fully stated herein.

10. Defendant has violated FOIA by failing to produce any and all non-exempt records responsive to Plaintiff's August 4, 2009 request within the twenty (20) day time period required by 5 U.S.C. § 552(a)(6)(A)(i) and by failing to demonstrate that any withheld records responsive to this same request are exempt from production.

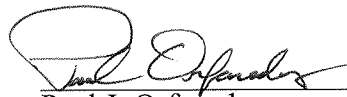
11. Plaintiff is being irreparably harmed by reason of Defendant's violation of FOIA, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to conform its conduct to the requirements of the law.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) declare Defendant's failure to comply with FOIA to be unlawful; (2) order Defendant to search for and produce any and all non-exempt records responsive to Plaintiff's August 4, 2009 request and a *Vaughn* index of allegedly exempt records responsive to the request by a date certain; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to the request; (4) grant Plaintiff an award of attorney's fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

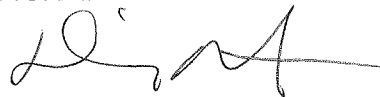
Dated: September 28, 2009

Respectfully submitted,

JUDICIAL WATCH, INC.



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